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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/816,624
Filing Date: March 23, 2001
Appellant(s): CANIS ET AL.

MAILED

FEB 2 3 2007

Technology Center 2100

Hunter E. Webb, Reg. No. 54,593
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12 December 2006

appealing from the Office action mailed 12 January 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for

review on appeal because they have been withdrawn by the

examiner.

The Advisory Action mailed 6 April 2006 withdrew the 35 USC

112, 1st paragraph rejection within in the Final Rejection mailed

12 January 2006.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix

to the brief is correct.

(8) Evidence Relied Upon

| 5,948,055 | PULSIPHER et al | 9-1999 |
| 6,282,175 | STEELE et al | 8-2001 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the

appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-7, 10-13, 15-19, 22-25, and 28 are rejected

under 35 U.S.C. 102(b) as being anticipated by US Patent 5 948

055 to Pulsipher et al.

Regarding claim 1, Pulsipher discloses a system for mapping

a network, comprising:

a collection system for collecting device identification

and detail information ("topology data") from devices on the

network by communicating with each device to retrieve the device

identification and detail information, wherein the detail

information includes device characteristic information and

software information; (column 7, lines 41-57)

a timer system for collecting the device identification and

detail information at predetermined scheduled times; (column 3,

lines 36-39; column 7, lines 41-57, specifically lines 44-49)

an analysis system for analyzing the collected device

identification and detail information (column 8, lines 7-24)

a report system for generating a mapping report based on

the analyzed device identification and detail information.

(column 8, lines 38-49)

Regarding claim 2, Pulsipher discloses the system of claim

1, wherein the collection system comprises at least one

collection tool for collecting the device identification and

detail information. (column 7, lines 41-57, specifically "network monitor")

Regarding claim 3, Pulsipher discloses the system of claim 2, wherein the analysis system comprises rules for resolving any conflicts between device identification and detail information collected by at least one collection tool. (column 11, lines 8-19)

Regarding claim 6, Pulsipher discloses the system of claim 1, further comprising a permission system for gaining user access to the network. (column 6, lines 11-35 and 62-64)

Regarding claim 10, Pulsipher discloses the system of claim 9, wherein the report system outputs the generated report. (column 8, lines 38-49 and 52-54, specifically lines 41-49 and 52-54)

Regarding claim 12, Pulsipher discloses a method for mapping a network, comprising the steps of:

installing collection tools on a collection apparatus; (column 6, lines 52-59)

communicating the collection apparatus with the network; (column 6, lines 26-28 and 36-45)

operating the collection tools to collect device identification and detail information from devices on the network; (column 7, lines 41-57)

analyzing the device identification and detail information;

(column 8, lines 7-24) and

reporting the analyzed device identification and detail

information. (column 8, lines 38-49)

Regarding claim 13, Pulsipher discloses the method of claim

12, wherein the collection apparatus comprises at least one

processor. (column 6, lines 19-20)

Claim 7 is rejected since claim 7 recites a system that

contains substantially the same limitations as recited in claims

1-3 in combination.

Claim 11 is rejected since this claim recites a system that

contains substantially the same limitations as recited in claim

6.

Claim 15 is rejected since this claim recites a method that

contains substantially the same limitations as recited in claim

3.

Claims 17-19 and 22 are rejected since these claims recite

a program product that contains substantially the same

limitations as recited in claims 1-3 and 6 respectively.

Claims 23-25 and 28 are rejected since these claims recite

a computer system that contains substantially the same

limitations as recited in claims 1-3 and 6 respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere*

Co., 383 U.S. 1, 148 USPQ 459 (1966), that are applied for

establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In

considering patentability of the claims under 35 U.S.C. 103(a),

the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered

therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to

point out the inventor and invention dates of each claim that

was not commonly owned at the time a later invention was made in

order for the examiner to consider the applicability of 35

U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior

art under 35 U.S.C. 103(a).

Claims 4-5, 8-9, 14, 20-21, and 26-27 are rejected under 35

U.S.C. 103(a) as being unpatentable over Pulsipher et al in view

of US Patent 6 282 175 to Steele et al.

Regarding claim 4, Pulsipher discloses the system of claim

1 wherein the device identification and detail information

includes device identity, device addresses, device

characteristics, software installed on the devices, and software

characteristics of the devices on the network. (column 7, line

65-column 8, line 6)

Pulsipher does not disclose wherein the device

identification and detail information includes operating system

software installed on the devices, however, Pulsipher does

disclose wherein the device may be a computer (column 7, line

67-column 8, line 2, specifically column 8, line 1).

Steele discloses wherein device identification and detail

information includes operating system software installed on the

devices (column 2, lines 32-40)

It would have been obvious to one of ordinary skill in the

art at the time the invention was made to combine the teachings

of these references since Steele discloses that collecting

information concerning the operating system allows

identification of what has changed in the configuration of a

computer which aids in troubleshooting and management of a

computer system network (column 2, lines 1-4). In view of these

specific advantages and that the references are directed to

collecting device identification and detail information about

devices on a network, one of ordinary skill would have been

motivated to combine these references and would have considered

them to be analogous to one another based on their related

fields of endeavor, which would lead one of ordinary skill to

reasonably expect a successful combination of the teachings.

Claims 8, 14, 20, and 26 are also rejected since these

claims recite a system, method, program product, and computer

system that contain substantially the same limitations as

recited in claim 4.

Regarding claim 5, Pulsipher discloses the system of claim

4 wherein the generated mapping report includes the device

identities, device types, the device addresses, the device

characteristics, the software installed on the devices, and the

software characteristics. (column 7, line 65-column 8, line 6;

column 8, lines 38-49, specifically "topology data")

Pulsipher does not disclose wherein the generated mapping

report includes operating system software installed on the

devices, however, Pulsipher does disclose wherein the device may be a computer (column 7, line 67-column 8, line 2, specifically column 8, line 1).

Steele discloses wherein a generated mapping report includes operating system software installed on the devices (column 2, lines 13-15 and 32-40)

Claim 5 is rejected since the motivations regarding the obviousness of claim 4 also apply to claim 5.

Claims 9, 21, and 27 are also rejected since these claims recite a system, method, program product, and computer system that contain substantially the same limitations as recited in claim 5.

(10) Response to Argument

The Applicant argues that Pulsipher does not teach or suggest collecting device identification and detail information wherein the detail information includes device characteristic information and software information. The Examiner submits that Pulsipher does in fact teach this limitation for the following reasons.

Pulsipher discloses:

"A data communications network generally includes a group of devices...situated at network nodes and a collection of communication channels for interconnection the various node.

Hardware and software associated with the network and
particularly the devices permit the devices to exchange data
electronically via the communication channels" (column 1, lines
14-20)

"The network monitor 306 transmits and receives data
packets to and from the network 118. The network monitor 306
discovers and monitors network topology...When network topology
changes on the network, the network monitor 306 generates
events, or traps (SNMP vernacular), which include an object
identifier and object change information...The network monitor
can also receive events from other devices, such as a router, in
the network 118...Furthermore, the network monitor 306 populates
the topology database 314 by way of the topology manager 310..."
(column 7, lines 41-57)

"The topology manager 310 prompts the network monitor 306
to update topology data related to particular events and
receives topology updates...The topology database 314 stores
topology data...Moreover, the topology data stored with respect
to the objects includes, for example but not limited to, an
interface or device address, an interface or device type, and
interface or device manufacturer, and whether an interface or
device supports the SNMP protocol". (column 7, line 59-column 8,
line 6)

The specification describes the claimed "device
information" and "detail information" which includes "device
characteristic information" and "software information" in the
following manner: "For example, collection tool C2 may identify
how much RAM each workstation 60 has. Collectively, collection
tools 42 preferably collect device information relating to:
device identity/type; device characteristics (e.g., RAM,
available hard drive space, processor speed, etc.); device
addresses; software installed on the devices (e.g., WordPerfect,
Windows, etc.); and software characteristics (e.g., software
version). However, it should be understood that this list is not
intended to be limiting and other types of information could be
retrieved." (page 12, line 19-page 13, line 6)

The Applicant argues that Pulsipher does not teach
collecting the same type of information as does the claimed
invention. However, Pulsipher clearly teaches an embodiment of
receiving events from devices regarding information about the
devices and "collects" this information within a database which
contains this information such as "device address" which is
interpreted by the Examiner by their broadest reasonable
interpretation in light of the specification as required by MPEP
2111 to be "device identification information" and detail
information such as "device characteristic information" and

"software information" which Pulsipher clearly discloses as
being "device type" or "device manufacturer" and "whether the
device supports the SNMP protocol". Therefore, it is submitted
that, in view of the teachings of Pulsipher and the broadest
reasonable interpretation of the claim, Pulsipher does disclose
collecting device identification and detail information wherein
the detail information includes device characteristic
information and software information as recited in the claims
and the rejection of the claims under 35 USC 102(b) in view of
Pulsipher should be sustained.

The Applicant further argues that Pulsipher does not teach
or suggest collecting the device identification and detail
information at predetermined scheduled times. As has been
maintained by the Examiner, Pulsipher discloses the use of
polling wherein Pulsipher specifically discloses that one of the
advantages the claimed invention is that "it implements
cooperating management and/or collection stations that can share
data, thereby reducing redundant and unnecessary polling"
(column 3, lines 55-59). Therefore, Pulsipher reasonably
suggests that the act of polling, which is known to those of
ordinary skill as a mechanism used by a computer to actively
check the status of an input or another device to see if an
event external to the computer has been registered at some

predetermined time interval between checks, may be used for the
purposes of sharing data between devices, although it is not a
preferred embodiment. In accordance with MPEP 2123, the Examiner
submits that the use of polling with the teachings of Pulsipher
as shown above to collect the device identification and detail
information at predetermined scheduled times would have been a
nonpreferred alternative embodiment of the disclosures of
Pulsipher and the disclosures and suggestions of Pulsipher one
of ordinary skill in the art would have reasonably suggested to
one having ordinary skill in the art to achieve the claimed
invention. Therefore, the Examiner submits that Pulsipher does
reasonably suggest collecting the device identification and
detail information at predetermined scheduled times and the
rejection under 35 USC 102(b) in view of Pulsipher should be
sustained.

The Applicant further argues that Pulsipher does not teach
or suggest a collection system for collecting device
identification and detail information from devices on the
network by communicating with each device to retrieve the device
information and detail information. Again, as shown above
regarding the suggestions of Pulsipher regarding the polling of
devices, Pulsipher does disclose this limitation. Further,
Pulsipher discloses that the devices may be capable of using the

SNMP protocol as shown above. This is also further evidence that

Pulsipher contemplates the retrieval of such information from

the devices since such collection of information from devices

based on a query and response metaphor is well known and used in

the art and is common knowledge to those of skill in the art in

relation to the use of the Simple Network Management Protocol

(SNMP). Therefore, in view of the above teachings and

suggestions of Pulsipher, the Examiner submits that Pulsipher

does disclose a collection system for collecting device

identification and detail information from devices on the

network by communicating with each device to retrieve the device

information and detail information and the rejection under 35

USC 102(b) in view of Pulsipher should be sustained.

The Applicant argues that the Examiner has not made a

proper prima facie case of obviousness since the combination of

the teachings of Pulsipher and Steele would not produce the

claimed invention. The Examiner has shown that Pulsipher teaches

the claimed invention as shown above. The Applicant has failed

to specifically show and argue any limitations shown by the

Examiner to be taught within Steele, therefore, the Examiner

submits that Steele does teach the limitations as shown as being

taught in Steele. Therefore, the references teach or suggest all

of the claim limitations as required by the third criterion for

obviousness. As the Examiner has shown, Steele discloses that
collecting information concerning the operating system allows
identification of what has changed in the configuration of a
computer which aids in troubleshooting and management of a
computer system network (column 2, lines 1-4). In view of these
specific advantages and that the references are directed to
collecting device identification and detail information about
devices on a network, one of ordinary skill would have been
motivated to combine these references and would have considered
them to be analogous to one another based on their related
fields of endeavor, which would lead one of ordinary skill to
reasonably expect a successful combination of the teachings.
Therefore, the Examiner submits that a proper prima facie case
of obviousness as been established and the combined teachings of
Pulsipher and Steele teach the claimed invention as claimed in
claims 4-5, 8-9, 14, 20-21, and 26-27 and that the rejection
under 35 USC 103(a) in view of Pulsipher and Steele should be
sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified
by the examiner in the Related Appeals and Interferences section
of this examiner's answer.

For the above reasons, it is believed that the rejections
should be sustained.

Respectfully submitted,

George C. Neurauter, Jr.

Patent Examiner

Art Unit 2143

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Conferees:
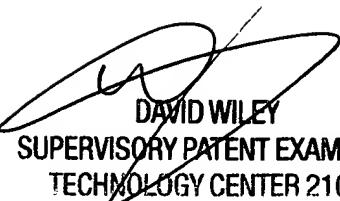
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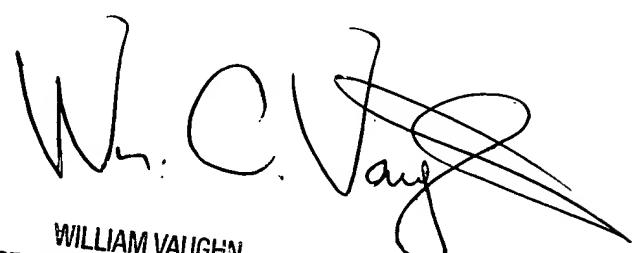
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